

Section 8

Definitions

Adult jail. A locked facility, administered by State, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than 1 year (28 CFR 31.304(m)).

Adult lockup. Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature that does not hold persons after they have been formally charged (28 CFR 31.304(n)).

Civil-type offender. A juvenile offender who has been charged with or adjudicated for an offense that is civil in nature. Examples include noncriminal traffic violations and noncriminal fish and game violations.

Collocated facility. A collocated facility is a juvenile facility that is located in the same building as an adult jail or lockup or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered “related” when it shares physical features such as walls and fences or services beyond mechanical services (heating, air conditioning, water, and sewer) (28 CFR 31.303(e)(3)(i)(A)).

Contact. Any physical or sustained sight and sound contact between juvenile offenders in a secure custody status and incarcerated adults, including inmate trustees. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juvenile offenders (28 CFR 31.303(d)).

Court holding facility. A court holding facility is a secure facility, other than an adult jail or lockup, that is used to temporarily detain persons immediately before or after detention hearings or other court proceedings.

Criminal-type offender. A juvenile offender who has been charged with or adjudicated for conduct that would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 31.304(g)).

Delayed egress device. A device that precludes the use of exits for a predetermined period of time.

Facility. A place, an institution, a building or part thereof, set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies (28 CFR 31.304(c)).

Juvenile offender. An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law, i.e., a criminal-type offender or a status offender (28 CFR 31.304(f)).

Juvenile who is accused of having committed an offense. A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court (28 CFR 31.304(d)).

Juvenile who has been adjudicated as having committed an offense. A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender (28 CFR 31.304(e)).

Lawful custody. The exercise of care, supervision, and control over a juvenile offender or nonoffender pursuant to the provisions of the law or of a judicial order or decree (28 CFR 31.304(j)).

Nonoffender. A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile (28 CFR 31.304(i)). These cases are referred to by many names including Children in Need of Services (CHINS), Children in Protective Services (CHIPS), and Families in Need of Services (FINS).

Nonsecure custody. A juvenile may be in law enforcement custody and, therefore, not free to leave or depart from the presence of a law enforcement officer or at liberty to leave the premises of a law enforcement facility, but not be in a secure detention or confinement status. The November 2, 1988, *Federal Register* announcement, *Policy Guidance for Nonsecure Custody of Juveniles in Adult Jails and Lockups; Notice of Final Policy*, states that the following policy criteria, if satisfied, will constitute nonsecure custody of a juvenile in an adult jail or lockup facility:

1. The area(s) where the juvenile is held is an unlocked multipurpose area, such as a lobby, office, or interrogation room which is not designated, set aside, or used as a secure detention area or is not part of such an area, or, if a secure area, is used only for processing purposes;
2. The juvenile is not physically secured to a cuffing rail or other stationary object during the period of custody in the facility;
3. The use of the area(s) is limited to providing nonsecure custody only long enough for and for the purposes of identification, investigation, processing, release to parents, or arranging transfer to an appropriate juvenile facility or to court;
4. In no event can the area be designed or intended to be used for residential purposes; and

5. The juvenile must be under continuous visual supervision by a law enforcement officer or facility staff during the period of time that he or she is in nonsecure custody.

In addition, a juvenile placed in the following situations would be considered in a nonsecure status:

- If certain criteria are met, a juvenile handcuffed to a nonstationary object: Handcuffing techniques that do not involve cuffing rails or other stationary objects are considered nonsecure if the five criteria listed above are adhered to.
- If certain criteria are met, a juvenile being processed through a secure booking area: Where a secure booking area is all that is available, and continuous visual supervision is provided throughout the booking process, and the juvenile remains in the booking area only long enough to be photographed and fingerprinted (consistent with State law and/or judicial rules), the juvenile is not considered to be in a secure detention status. Continued nonsecure custody for the purposes of interrogation, contacting parents, or arranging an alternative placement must occur outside the booking area.
- A juvenile placed in a secure police car for transportation: The JJDP Act applies to secure detention facilities and secure correctional facilities, so a juvenile placed in a secure police car for transportation would be in a nonsecure status.
- A juvenile placed in a nonsecure runaway shelter, but prevented from leaving due to staff restricting access to exits: A facility may be nonsecure if physical restriction of movement or activity is provided solely through facility staff.

Other individual accused of having committed a criminal offense. An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction (28 U.S.C. 31.304(k)).

Other individual convicted of a criminal offense. An individual, adult or juvenile, who has been convicted of a criminal offense by a court exercising criminal jurisdiction (28 U.S.C. 31.304(l)).

Secure Custody. As used to define a detention or correctional facility, this term includes residential facilities that include construction features designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff (28 CFR 31.304(b)).

Secure juvenile detention center or correctional facility. A secure juvenile detention or correctional facility is any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or nonoffenders (28 CFR 31.303(n)(f)(2)). Many States use the term “training school” for juvenile correctional facilities.

Staff secure facility. A staff secure facility may be defined as a residential facility (1) which does not include construction features designed to physically restrict the movements and activities of juveniles who are in custody therein; (2) which may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

Status offender. A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult (28 CFR 31.304(h)). The following are examples of status offenses:

- Truancy.
- Violations of curfew
- Unruly.
- Runaway.
- Underage possession and/or consumption of tobacco products.
- Underage possession and/or consumption of alcohol. This offense is always considered a status offense, even though State or local law may consider it a delinquent offense.